

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**CRIMINAL JURISDICTION**

**MISCELLANEOUS CASE NO. HAM 60 of 2018**  
**[High Court Criminal Case No. HAC 72 of 2018)**

**BETWEEN** : RICHARD ALLEN

**AND** : THE STATE

**Counsel** : Accused in Person  
Mr S Shah for the State

**Date of Hearing** : 10 May 2018

**Date of Ruling** : 16 May 2018

**BAIL RULING**

- [1] The accused is charged with one count each of aggravated burglary and theft. He seeks bail pending trial. The application for bail was made in person by the accused. The accused seeks bail to support his wife and two young children, who are financially depended on him.
- [2] The State opposes the application for bail on the grounds set out in the affidavit of the investigating officer, Detective Constable 3379 Nitesh.
- [3] Under the Bail Act, the overarching principle is that an accused is entitled to bail unless it is not in the interests of justice to grant bail (s3(1)). There is a presumption in favour of the granting of bail but that presumption is displaced if the accused has previously breached bail undertakings or a bail condition. The primary consideration to grant bail is the likelihood of the accused appearing in court to answer the charge

(s17(2)). Regard must also be made to the time the accused may have to spend in custody before trial if bail is not granted (s17(1)). Reasons are required for refusing bail. Bail may be refused for either one of the following circumstances set out in section 19(1):

- (a) the accused person is unlikely to surrender to custody and appear in court to answer the charges laid;
- (b) the interests of the accused person will not be served through the granting of the bail; or
- (c) granting bail to the accused person would endanger the public interest or make the protection of the community more difficult.

- [4] In assessing section 19(1) circumstances, the court must have regard to the factors outlined in section 19(2).
- [5] The accused allegedly committed the aggravated burglary and theft while on bail on a number of charges pending in the Magistrates' Court as follows:

**Case Number 441/17**

Statement of Offence (a)

Assault Causing Actual Bodily Harm: Contrary to Section 275 of the Crimes Act of 2009.

Particulars of Offence (b)

Richard Allen and Maywan Chinnapa on the 8<sup>th</sup> day of April, 2017 at Nasinu in the Central Division assaulted Melania Rokoloqa thereby causing her actual bodily harm.

**Case Number 65/18**

Count One

Statement of Offence (a)

Serious Assault: Contrary to Section 227(a) of the Crimes Act No. 44 of 2009.

Particulars of Offence (b)

Richard Allen on the 6<sup>th</sup> day of January, 2018 at Nasinu in the Central Division assaulted PC 4670 Aminiasi Kawa causing him actual bodily harm.

Count Two

Statement of Offence (a)

Resisting Arrest: Contrary to section 277(b) of the Crimes Decree No. 44 of 2009.

Particulars of Offence (b)

Richard Allen on the 6<sup>th</sup> of January, 2018 at Nasinu in the Central Division resisted by a Police Officer namely PC 4670 Aminiasi Kawa, in due execution of his duty.

Count Three

Statement of Offence (a)

Damaging Property: Contrary to section 369(1) of the Crimes Decree No. 44 of 2009.

Particulars of Offence (b)

Richard Allen on the 6<sup>th</sup> of January, 2018 at Nasinu in the Central Division willfully and unlawfully damaged the Police Uniform valued at \$35.00 the property of PC 4670 Aminiasi Kawa.

**Case Number 66/18**

Statement of Offence (a)

Assault Causing Actual Bodily Harm: Contrary to Section 275 of the Crimes Act No.44 of 2009.

Particulars of Offence (b)

Richard Allen on the 28<sup>th</sup> day of December, 2017 at Nasinu in the Central Division assaulted Akisi Taoba thereby causing her actual bodily harm.

**Case Number 67/18**

COUNT ONE

Statement of Offence (a)

Assault Causing Actual Bodily Harm: Contrary to Section 275 of the Crimes Act No. 44 of 2009.

Particulars of Offence (b)

Richard Allen and on the 28<sup>th</sup> day of December, 2017 at Nasinu in the Central Division assaulted Osea Ravutia causing him actual bodily harm.

COUNT TWO

Statement of Offence (b)

Criminal Intimidation: Contrary to section 375(1)(a) of the Crimes Act No. 44 of 2009.

Particulars of Offence (b)

Richard Allen and on the 28<sup>th</sup> day of December, 2017 at Nasinu in the Central Division without lawful excuse threatened Osea Ravutia to stab him with a knife with intend to cause alarm to the said Osea Ravutia.

**Case Number 216/18**

Statement of Offence (a)

Count One

Drunk and Disorderly: Contrary to Section 4 of the Minor Offence Act 18 .

Particulars of Offence (b)

Richard Allen, Maywan Shiva Rai, Josese Tagi and Lepani Coaster on the 3<sup>rd</sup> of February, 2018 at Nasinu in the Central Division were Drunk and Act in a Disorderly manner in the Public place namely Makoi Shopping Complex.

Count Two

Statement of Offence (b)

Resisting Arrest: Contrary to section 277(b) of the Crimes Act No. 44 of 2009.

Particulars of Offence (b)

Richard Allen, Maywan Shiva Rai, Josese Tagi and Lepani Coaster on the 3<sup>rd</sup> of February, 2018 at Nasinu in the Central Division resisted the arrest by Police Officer namely SGT Saimoni Bebenisala and team who is in due execution of his duty to arrest.

- [6] Apart from pending charges, the accused has an appalling criminal record. He has 17 previous convictions since 2004 for serious offences such as robbery with violence and burglary. In 2007, he was convicted of forfeiture of bail bond and in 2009 for breaching a bail condition. He was also convicted of giving false information to a police officer in 2009. The accused's ground for seeking bail to support his family is

very thin. He has spent most of his life in engaging in anti-social behaviour. He has no stable employment or community ties.

- [7] Although the prosecution case is depended on accomplice evidence, there is circumstantial evidence to support the accomplice's evidence. If convicted, he is likely to be declared a habitual offender to justify a long prison sentence to protect the community.
- [8] All these factors lead me to conclude that the accused is unlikely to appear in court to answer the charges and that granting bail to the accused would make the protection of the community more difficult.
- [9] Bail is refused. The accused will remain in custody pending trial. The case will be assigned a priority hearing date before the end of 2018.



A handwritten signature in black ink, appearing to read "D. Goundar", followed by a horizontal line.

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**Hon. Mr Justice Daniel Goundar**

**Solicitors:**

Accused in Person  
Office of the Director of Public Prosecutions for the State